

AMENDING THE ACT OF FEBRUARY 7, 1905, AS AMENDED, AUTHORIZING THE KENSINGTON & EASTERN RAILROAD CO. TO CONSTRUCT A BRIDGE ACROSS THE CALUMET RIVER

JULY 3 (legislative day, JUNE 27), 1952.—Ordered to be printed

Mr. CHAVEZ, from the Committee on Public Works, submitted the following

REPORT

[To accompany H. R. 8190]

The Committee on Public Works, to whom was referred the bill (H. R. 8190) to amend the act of February 7, 1905, as amended, authorizing the Kensington & Eastern Railroad Co. to construct a bridge across the Calumet River, having considered the same, report favorably thereon without amendment, and recommend that the bill do pass.

The act of February 7, 1905, authorized the Kensington & Eastern Railroad Co., a subsidiary of the Illinois Central Railroad, to construct a drawbridge over the Calumet River near One hundred and Thirtieth Street, Chicago, Ill. In May 1951, the Illinois Central Railroad Co. submitted for the approval of the Chief of Engineers and the Secretary of the Army, plans for raising the existing drawbridge 6 feet, resupporting the structure, and converting the drawspan to a fixed span. Since the act authorizing construction of the existing bridge specified that the structure should be a drawbridge, the Chief of Engineers was without authority to act upon the application for the permit.

The bill would authorize the Kensington & Eastern Railroad Co. to convert the drawbridge into a fixed-span railroad bridge, subject to approval of plans by the Chief of Engineers and the Secretary of the Army. The bill would not place any restrictions on the authority of the Department of the Army by specifying the type of bridge to be constructed, the plans thereof still to be approved by the Chief of Engineers. The additional bridge adjacent thereto may be constructed subject to the provisions of the General Bridge Act of 1946.

The bill has been further amended to grant Congress the right to alter, amend, or repeal the act.

The expenditure of Federal funds is not involved in this matter.

The Interstate Commerce Commission does not object to enactment of this legislation, and the Department of the Army has no objection to its enactment if amended. Comments of those agencies are as follows:

APRIL 22, 1952.

Hon. DENNIS CHAVEZ,
*Chairman, Committee on Public Works,
United States Senate*

DEAR SENATOR CHAVEZ: Reference is made to your request for the views of this Department with respect to S. 2629, Eighty-second Congress, second session, a bill to amend the act of February 7, 1905, as amended, authorizing the Kensington & Eastern Railroad Co. to construct a bridge across the Calumet River. The Secretary of Defense has delegated to the Department of the Army the responsibility for expressing the views of the Department of Defense.

The Department of the Army, on behalf of the Department of Defense, offers no objection to the favorable consideration of S. 2629, if amended as hereinafter recommended.

On May 23, 1951, the Illinois Central Railroad Co. submitted for the approval of the Chief of Engineers and the Secretary of the Army plans for raising the existing drawbridge supporting the Kensington & Eastern Railroad Co. tracks over the Calumet River near One Hundred and Thirtieth Street, Chicago, Ill., a distance of 6 feet, resupporting the structure, and converting the drawspan to a fixed bridge. The act of February 7, 1905 (33 Stat. 703), which authorized construction of the existing bridge, specified that the structure should be a drawbridge. In view of this restriction the Department of the Army is without authority to act upon the application.

H. R. 2629 would authorize the Kensington & Eastern Railroad Co. to convert the drawbridge into a fixed-span railroad bridge and to construct a fixed-span railroad bridge adjacent thereto subject to the approval of plans by the Chief of Engineers and the Secretary of the Army. The amendment would have the effect of restricting the authority of the Department of the Army in much the same manner as the original act by specifying the type of bridge to be constructed. Attention is also invited to the fact that the amendment would eliminate the right of Congress to alter, amend, or repeal the act.

The following changes in the bill are therefore recommended:

Section 1 (lines 7-10, p. 1, and lines 1-2, p. 2). Amend section 5 to read as follows: "The bridge authorized by section 1 of this Act may be either a drawbridge or a fixed bridge as approved by the Chief of Engineers and the Secretary of the Army, and the Kensington and Eastern Railroad Company may construct, maintain, and operate an additional bridge adjacent thereto subject to the provisions of the General Bridge Act of 1946."

Section 2 (line 5, p. 2). Insert after "The" the words "right to alter, amend, or repeal this Act is hereby expressly reserved; and the".

The bill does not involve the expenditure of funds by the United States.

An identical report on H. R. 6159, a companion bill, has been coordinated among the departments and boards of the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget has advised that there is no objection to the submission of an identical report on H. R. 6159, the companion bill.

Sincerely yours,

FRANK PACE, Jr.,
Secretary of the Army.

INTERSTATE COMMERCE COMMISSION,
Washington, February 15, 1952.

Hon. DENNIS CHAVEZ,
*Chairman, Committee on Public Works,
412 Senate Office Building, Washington, D. C.*

MY DEAR CHAIRMAN CHAVEZ: Your letter of February 8, 1952, addressed to the Chairman of the Commission, and requesting suggestions on S. 2629, introduced by Senator Capehart, to amend the act of February 7, 1905, as amended, authorizing the Kensington & Eastern Railroad Co. to construct a bridge across the Calumet River, has been referred to our legislative committee. After careful consideration by that committee, I am authorized to submit the following comments in its behalf:

The Kensington & Eastern Railroad Co. is a subsidiary of the Illinois Central Railroad. The bill proposes to convert into a fixed span railroad bridge the drawbridge authorized by section 1 of this act (February 7, 1905, as amended) and to permit the construction, maintenance, and operation of a fixed span bridge adjacent thereto subject to the approval of plans by the Chief of Engineers and the Secretary of the Army. Since the proposal does not contemplate abandonment of a part of the line nor relocation of the line, the construction of such a bridge is not objectionable to the Commission.

Respectfully submitted,

WALTER M. W. SPLAWN,
Chairman of Legislative Committee.
CHARLES D. MAHAFFIE,
JOHN L. ROGERS.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of Rule XXIX of the Standing Rules of the Senate, changes in existing law made by this bill are shown as follows (existing law is printed in roman, the new matter is printed in italics):

CHAP. 548.—AN ACT AUTHORIZING THE KENSINGTON AND EASTERN RAILROAD COMPANY TO CONSTRUCT A BRIDGE ACROSS THE CALUMET RIVER

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Kensington and Eastern Railroad Company, a railroad company organized under the laws of the State of Illinois, its successors and assigns, are hereby authorized to construct, maintain, and operate a drawbridge across the Calumet River in the northeast quarter of the northwest quarter of section thirty-six, township thirty-seven north, range fourteen east of the third principal meridian, in Cook County, Illinois, at a point about three hundred and fifty feet south of the north line of the said section, the said point being about eight-tenths of a mile upstream from the bridge of the New York, Chicago and Saint Louis Railroad Company and about two miles below the bridge of the Pittsburg, Fort Wayne and Chicago Railway Company, located near Hegewisch, in the State of Illinois: *Provided*, That such site is suitable in the judgment of the Secretary of War, to the interests of navigation.

SEC. 2. That the draw provided for the bridge herein authorized shall be opened promptly, upon reasonable signals, for the passage of boats, and said corporation shall maintain, at its own expense, from sunset to sunrise, such lights or other signals on said bridge, as the Light-House Board shall prescribe. The said company shall submit to the Secretary of War for his approval, designs and drawings of the said bridge and a map of the location thereof, giving sufficient information to enable him to fully and satisfactorily understand the subject, and until the said plans and location are approved by the Secretary of War the bridge shall not be commenced or built. Any change made in the plan of the said bridge during the progress of its construction or after its completion shall be subject to the approval of the Secretary of War, and said company shall, at its own expense, make such changes in the said bridge as the Secretary of War may at any time direct in the interest of navigation.

SEC. 3. That any bridge built under this Act and subject to its limitations shall be a lawful structure, and shall be recognized and known as a post route, upon which no higher charge shall be made for the transmission of mails and the troops and munitions of war of the United States over the same than the rate per mile paid for the transportation over the railroad or approaches leading to the said bridge; and it shall enjoy the rights and privileges of other post roads in the United States; and equal privileges in the use of said bridge shall be granted to all telegraph and telephone companies, and the United States shall have the right of way across said bridge and its approaches for postal telegraph and telephone purposes.

SEC. 4. That all railroad companies desiring the use of the said bridge shall have and be entitled to equal rights and privileges relative to the passage of railway trains over the same and over the approaches thereto upon the payment of reasonable compensation for such use; and in case the owner or owners of said

bridge and the several railroad companies, or any one of them, desiring such use shall fail to agree upon the sum or sums to be paid and upon rules and conditions to which each shall conform in using said bridge, all matters in issue between them shall be decided by the Secretary of War upon the hearing of the allegations and proofs of the parties.

SEC. 5. That the right to alter, amend, or repeal this Act is expressly reserved and this Act shall be null and void if actual construction of the bridge herein authorized be not commenced within one year and completed within three years from the approval of this Act.

Approved, February 7, 1905.

AN ACT To amend the Act of February 7, 1905, as amended, authorizing the Kensington and Eastern Railroad Company to construct a bridge across the Calumet River

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of February 7, 1905, as amended, authorizing the Kensington and Eastern Railroad to construct a bridge across the Calumet River, is amended to read as follows:

"SECTION 1. The Kensington and Eastern Railroad Company, a railroad company organized under the laws of the State of Illinois, its successors and assigns, are hereby authorized to construct, maintain, and operate a bridge across the Calumet River in the northeast quarter of the northwest quarter of section 36, township 37 north, range 14 east of the third principal meridian, in Cook County, Illinois, at a point about three hundred and fifty feet south of the north line of the said section, the said point being about eight-tenths of a mile upstream from the bridge of the New York, Chicago and Saint Louis Railroad Company, located near Hegewisch, in the State of Illinois.

"SEC. 2. The bridge authorized by section 1 of this Act may be either a drawbridge or a fixed bridge as approved by the Chief of Engineers and the Secretary of the Army: Provided, That changes in type, design, and location of such bridge may be made, upon approval of plans for such changes by the Chief of Engineers and the Secretary of the Army.

"SEC. 3. The bridge authorized by section 1 of this Act shall be maintained and operated according to existing law as contained in chapter 11 of title 33 of the United States Code and all rights granted thereunder are hereby expressly reserved.

"SEC. 4. The Kensington and Eastern Railroad Company may sell, assign, transfer, and mortgage all of its rights, powers and privileges under this Act; and its successors and assigns, and any corporation to which such rights, powers, and privileges are sold, assigned or transferred, or which acquires the same by mortgage foreclosure or otherwise, may exercise the same as fully as though conferred herein directly upon such corporation.

"SEC 5. The right to alter, amend, or repeal this Act is hereby expressly reserved."

